

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 824

Introduced by Beutler, 28

Read first time January 20, 1999

Committee: Judiciary

A BILL

1 FOR AN ACT relating to courts; to amend sections 24-516, 25-1140,
2 25-1140.09, 25-1542, 25-1904, 25-1907, 25-1908, 25-1911,
3 25-1913 to 25-1916, 25-1920, 25-1923, 25-1925, 25-1935 to
4 25-1937, 25-21,233, 25-2728, 25-2731 to 25-2734, 29-611,
5 29-2302, 29-2306, 29-2308, 29-2317, 29-2319, 29-2525,
6 31-329, 33-106, 43-112, 43-287.05, 43-2,106.01, 71-3605,
7 76-715, 76-717, 76-718, 76-720, 76-723, 76-1447, and
8 77-2023, Reissue Revised Statutes of Nebraska, and
9 sections 24-312, 25-1901, 25-1912, 25-2739, 25-2740,
10 25-2807, and 30-1601, Revised Statutes Supplement, 1998;
11 to change and eliminate provisions relating to appeals
12 from county court and Small Claims Court; to harmonize
13 provisions; to repeal the original sections; and to
14 outright repeal sections 25-2729, 25-2730, and 25-2735 to
15 25-2738, Reissue Revised Statutes of Nebraska.
16 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 24-312, Revised Statutes Supplement,
2 1998, is amended to read:

3 24-312. The district judges may interchange and hold
4 each other's court. Whenever it ~~shall appear~~ appears by affidavit,
5 to the satisfaction of any district judge in the state, that the
6 judge of any other district is unable to act, on account of
7 sickness, interest, or absence from the district or from any other
8 cause, the judge to whom application may be made shall have power
9 to make any order or do any act relative to any suit, judicial
10 matter, or proceeding or to any special matter arising within the
11 district where such vacancy or disability exists which the judge of
12 such district court could make or do. The order or act shall have
13 the same effect as if made or done by the judge of such district.

14 A district judge may appoint by order a consenting county
15 judge residing in the district to act as a district judge in
16 specific instances on any matter over which the district court has
17 determined that it has jurisdiction over the parties and subject
18 matter, except appeals from the ~~county court~~ Small Claims Court.
19 The appointed county judge shall have power to make any order or do
20 any act relative to any suit, judicial matter, or proceeding or to
21 any special matter which the district judge of such district could
22 make or do if (1) all parties have consented to the appointment or
23 (2) no party has objected to the appointment within ten days after
24 service of the order of appointment upon him or her, except that in
25 any matter arising under Chapter 42, consent shall not be required
26 and a party shall not have the right to object to the appointment
27 of a county judge to act as a district judge. Any order or act by
28 the county judge after appointment shall have the same effect as if

1 made or done by the district judge of such district. A copy of the
2 order of appointment shall be filed in each action in which a
3 county judge acts as a district judge.

4 Sec. 2. Section 24-516, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 24-516. In the event of a vacancy in the office of
7 county judge or the disqualification, absence, or the temporary
8 incapacity of a county judge, the Chief Justice of the Supreme
9 Court may designate a county judge from another district to
10 temporarily perform the duties of the office. The Chief Justice
11 also may assign a county judge to temporarily perform duties in
12 another district when in his or her opinion such assignment would
13 be beneficial to the administration of justice.

14 A county judge may appoint by order a consenting district
15 judge residing in the district to act as county judge in specific
16 instances on any matter over which the county court has determined
17 that it has jurisdiction over the parties and subject matter. The
18 appointed district judge shall have power to make any order or do
19 any act relative to any suit, judicial matter, or proceeding or to
20 any special matter which the county judge of such county could make
21 or do. Any such order or act shall have the same effect as if made
22 or done by the county judge of such county. A district judge shall
23 not hear any appeals of matters in which he or she acted as a
24 ~~county~~ judge of the Small Claims Court. A copy of the order of
25 appointment shall be filed in each action in which a district judge
26 acts as a county judge.

27 Sec. 3. Section 25-1140, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 25-1140. Upon appeal from the county or district court,
2 the party appealing may order a bill of exceptions by filing in the
3 office of the clerk of the ~~district~~ court from which the appeal is
4 taken a praecipe therefor within the time allowed for filing a
5 notice of appeal. The procedure for preparation, settlement,
6 signature, allowance, certification, filing, and amendment of the
7 bill of exceptions shall be regulated and governed by rules of
8 practice prescribed by the Supreme Court.

9 Sec. 4. Section 25-1140.09, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 25-1140.09. On the application of the county attorney or
12 any party to a suit in which a record of the proceedings has been
13 made, upon receipt of the notice provided in section 29-2525, or
14 upon the filing of a praecipe for a bill of exceptions by an
15 appealing party in the office of the clerk of the ~~district~~ court as
16 provided in section 25-1140, the court reporter shall prepare a
17 transcribed copy of the proceedings so recorded or any part
18 thereof. The reporter shall be entitled to receive, in addition to
19 his or her salary, a fee of two dollars and seventy-five cents per
20 page for the original copy and fifty cents per page for each other
21 copy, to be paid by the party requesting the same except as
22 otherwise provided in this section.

23 When the transcribed copy of the proceedings is required
24 by the county attorney, the fee therefor shall be paid by the
25 county in the same manner as other claims are paid. When the
26 defendant in a criminal case, after conviction, makes an affidavit
27 that he or she is unable by reason of his or her poverty to pay for
28 such copy, the court or judge thereof may, by order endorsed on

1 such affidavit, direct delivery of such transcribed copy to such
2 defendant, and the fee shall be paid by the county in the same
3 manner as other claims are allowed and paid. When such copy is
4 prepared in any criminal case in which the sentence adjudged is
5 capital, the fees therefor shall be paid by the county in the same
6 manner as other claims are allowed or paid.

7 The procedure for preparation, settlement, signature,
8 allowance, certification, filing, and amendment of a bill of
9 exceptions shall be regulated and governed by rules of practice
10 prescribed by the Supreme Court. The fee paid shall be taxed, by
11 the clerk of the ~~district~~ court from which the appeal was taken, to
12 the party against whom the judgment or decree is rendered except as
13 otherwise ordered by the presiding ~~district~~ judge.

14 Sec. 5. Section 25-1542, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 25-1542. No judgment on which execution has not been
17 taken out and levied before the expiration of five years next after
18 its rendition shall operate as a lien upon the estate of any debtor
19 to the preference of any other bona fide judgment creditor or
20 purchaser, but when judgment has been or may be rendered in the
21 Court of Appeals or Supreme Court and any special mandate awarded
22 to the county or district court to carry the same into execution,
23 the lien of the judgment creditor shall continue for five years
24 after the first day of the next term of the county or district
25 court to which such mandate may be directed. Nothing in this
26 section shall be construed to defeat the lien of any judgment
27 creditor who fails to take out execution and cause a levy to be
28 made as provided in this section when such failure is occasioned by

1 appeal, proceedings in error, or injunction or by a vacancy in the
2 office of sheriff and coroner or the inability of such officers
3 until one year after such disability is removed.

4 Sec. 6. Section 25-1901, Revised Statutes Supplement,
5 1998, is amended to read:

6 25-1901. A judgment rendered or final order made by the
7 Small Claims Court or any tribunal, board, or officer exercising
8 judicial functions ~~and~~ which is inferior in jurisdiction to the
9 district court may be reversed, vacated, or modified by the
10 district court, except that the district court shall not have
11 jurisdiction over appeals from a juvenile court as defined in
12 section 43-245 or appeals from a county court. ~~in matters arising~~
13 ~~under the Nebraska Probate Code, in matters involving adoption or~~
14 ~~inheritance tax, or in domestic relations matters.~~

15 Sec. 7. Section 25-1904, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 25-1904. The summons mentioned in section 25-1903 shall,
18 upon the written praecipe of the plaintiff in error, or his or her
19 attorney, be issued by the clerk of the court in which the petition
20 is filed, to the sheriff of any county in which the defendant in
21 error or his or her attorney of record may be; and if the writ
22 issue to a foreign county, the sheriff thereof may return the same
23 by mail to the clerk, and shall be entitled to the same fees as if
24 the same had been returnable to the ~~district~~ trial court of the
25 county in which ~~said~~ such officer resides. The defendant in error,
26 or his or her attorney, may waive in writing the issuing or service
27 of the summons.

28 Sec. 8. Section 25-1907, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 25-1907. ~~No proceedings~~ A proceeding to reverse, vacate,
3 or modify any judgment rendered, or final order made, by any court
4 inferior to the district court shall not operate as a stay of
5 execution unless (1) the judge or clerk of the court in which the
6 judgment was rendered or order made shall take and approve a
7 written undertaking to the defendant in error, executed on the part
8 of the plaintiff in error, by one or more sufficient sureties or
9 (2) a statute specific to the proceeding provides that the appeal
10 operate as a supersedeas. The undertaking shall be conditioned
11 that the plaintiff will pay all the costs which have accrued or may
12 accrue on such proceedings in error, together with the amount of
13 any judgment that may be rendered against such plaintiff in error,
14 either on the further trial of the case, after the judgment of the
15 court below shall have been set aside or reversed, or upon and
16 after the affirmation thereof in the district court. No
17 proceedings shall operate as a stay of execution on judgments of
18 restitution rendered in actions for the forcible entry and
19 detention, or the forcible detention only, of lands and tenements,
20 unless the undertaking shall be further conditioned for the payment
21 to the defendant in error of all money or sums of money that has or
22 have accrued or may accrue to the defendant from the plaintiff in
23 error for the use, occupation, or rent of the lands and tenements
24 in controversy, in case the judgment sought to be reversed ~~shall be~~
25 is affirmed.

26 Sec. 9. Section 25-1908, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 25-1908. Before the written undertaking mentioned in

1 section 25-1907 shall operate to stay execution of the judgment or
2 order, a petition in error must be filed in the ~~district~~ trial
3 court, and the execution of the undertaking, and the sufficiency of
4 the sureties must be approved by the judge or clerk of the court in
5 which the judgment was rendered or order made. The judge or clerk
6 of the court shall endorse approval upon the undertaking. The
7 undertaking shall be filed in the court in which the judgment was
8 rendered or order made.

9 Sec. 10. Section 25-1911, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 25-1911. A judgment rendered or final order made by the
12 ~~district~~ trial court may be reversed, vacated, or modified for
13 errors appearing on the record.

14 Sec. 11. Section 25-1912, Revised Statutes Supplement,
15 1998, is amended to read:

16 25-1912. (1) The proceedings to obtain a reversal,
17 vacation, or modification of judgments and decrees rendered or
18 final orders made by the ~~district~~ trial court, including judgments
19 and sentences upon convictions for felonies and misdemeanors, shall
20 be by filing in the office of the clerk of the district court in
21 which such judgment, decree, or final order was rendered, within
22 thirty days after the rendition of such judgment or decree or the
23 making of such final order, a notice of intention to prosecute such
24 appeal signed by the appellant or appellants or his, her, or their
25 attorney of record and, except as otherwise provided in sections
26 29-2306 and 48-641, by depositing with the clerk of the ~~district~~
27 trial court the docket fee required by section 33-103.

28 (2) The running of the time for filing a notice of appeal

1 shall be terminated as to all parties (a) by a motion for a new
2 trial under section 25-1143 if such motion is filed by any party
3 within ten days after the verdict, report, or decision was rendered
4 or (b) by a motion to set aside the verdict or judgment under
5 section 25-1315.02 if such motion is filed by any party within ten
6 days after the receipt of a verdict, and the full time for appeal
7 fixed in subsection (1) of this section commences to run from the
8 entry of the order ruling upon the motion filed pursuant to
9 subdivision (a) or (b) of this subsection. When any motion
10 terminating the time for filing a notice of appeal is timely filed
11 by any party, a notice of appeal filed before the court announces
12 its decision upon the terminating motion shall have no effect,
13 whether filed before or after the timely filing of the terminating
14 motion. A new notice of appeal shall be filed within the
15 prescribed time from the ruling on the motion. No additional fees
16 are required for such filing. A notice of appeal filed after the
17 court announces its decision or order on the terminating motion but
18 before the entry of the order is treated as filed on the date of
19 and after the entry of the order.

20 (3) Except as otherwise provided in subsection (2) of
21 this section and sections 29-2306 and 48-641, an appeal shall be
22 deemed perfected and the appellate court shall have jurisdiction of
23 the cause when such notice of appeal has been filed and such docket
24 fee deposited in the office of the clerk of the ~~district~~ court, ~~and~~
25 ~~after in which such judgment, decree, or final order was rendered.~~
26 After being perfected, no appeal shall be dismissed without notice,
27 and no step other than the filing of such notice of appeal and the
28 depositing of such docket fee shall be deemed jurisdictional.

1 (4) The clerk of the ~~district~~ court shall forward such
2 docket fee and a certified copy of such notice of appeal to the
3 Clerk of the Supreme Court, and the Clerk of the Supreme Court
4 shall docket such appeal.

5 (5) Within thirty days from the date of filing of notice
6 of appeal, the clerk of the ~~district~~ court shall prepare and file
7 with the Clerk of the Supreme Court a transcript certified as a
8 true copy of the proceedings contained therein. The Supreme Court
9 shall, by rule, specify the method of ordering the transcript and
10 the form and content of the transcript. Neither the form nor
11 substance of such transcript shall affect the jurisdiction of the
12 Court of Appeals or Supreme Court.

13 (6) Nothing in this section shall prevent any person from
14 giving supersedeas bond in the ~~district~~ court in the time and
15 manner provided in section 25-1916 nor affect the right of a
16 defendant in a criminal case to be admitted to bail pending the
17 review of such case in the Court of Appeals or Supreme Court.

18 Sec. 12. Section 25-1913, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 25-1913. The cause shall be docketed in the Court of
21 Appeals or Supreme Court under the same title it had in the
22 ~~district~~ trial court. The party or parties asking for the
23 reversal, vacation, or modification of such judgment, decree, or
24 final order shall be designated as appellant or appellants, and the
25 adverse party or parties shall be designated as appellee or
26 appellees.

27 Sec. 13. Section 25-1914, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 25-1914. On appeal in any case taken from the ~~district~~
2 trial court to the Court of Appeals or Supreme Court, other than an
3 appeal pursuant to section 71-6904, the appellant or appellants
4 shall, within thirty days after the rendition of the judgment or
5 decree or the making of the final order sought to be reversed,
6 vacated, or modified or within thirty days from the overruling of a
7 motion for a new trial in such cause, (1) file in the ~~district~~
8 trial court a bond or undertaking in the sum of seventy-five
9 dollars to be approved by the clerk of the ~~district~~ trial court,
10 conditioned that the appellant shall pay all costs adjudged against
11 him or her in the appellate court, or (2) make a cash deposit with
12 the clerk of at least seventy-five dollars for the same purpose.
13 If a supersedeas bond is executed, no bond for costs shall be
14 required. The giving of either form of bond or the making of such
15 deposit shall be certified to by the clerk of the ~~district~~ trial
16 court in the transcript for the appellate court. The appeal may be
17 dismissed on motion and notice in the appellate court if no bond
18 has been given and certified in the transcript or within such
19 additional time as may be fixed by the appellate court for good
20 cause shown.

21 Sec. 14. Section 25-1915, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 25-1915. The order of the Court of Appeals or Supreme
24 Court shall itemize the costs due and unpaid in each case, which
25 costs shall be paid to the clerk of the ~~district~~ trial court and
26 shall be paid by such clerk to the party adjudged entitled to the
27 same.

28 Sec. 15. Section 25-1916, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 25-1916. No appeal in any case shall operate as a
3 supersedeas unless the appellant or appellants within thirty days
4 after the rendition of such judgment or decree or the making of
5 such final order execute to the adverse party a bond with one or
6 more sureties, make a deposit of United States Government bonds
7 with the clerk, or in lieu thereof make a cash deposit with the
8 clerk for the benefit of the adverse party as follows:

9 (1) When the judgment, decree, or final order appealed
10 from directs the payment of money, the bond or United States
11 Government bonds shall be in the amount of the judgment, decree, or
12 final order and the taxable court costs in the ~~district~~ trial
13 court, plus the estimated amount of interest that will accrue on
14 the judgment, decree, or final order between its date and the final
15 determination of the cause in the Court of Appeals or Supreme Court
16 and the estimated amount of the costs of appeal, such estimated
17 interest to accrue and estimated court costs to be determined by
18 the trial court, such supersedeas bond, United States Government
19 bond, or cash deposit to be conditioned that the appellant or
20 appellants will prosecute such appeal without delay and pay all
21 condemnation money and costs which may be found against him, her,
22 or them on the final determination of the cause in the Court of
23 Appeals or Supreme Court, except that when a cash deposit is made,
24 United States Government bonds are deposited, or a bond is
25 provided, written by a corporate surety company authorized to do
26 business within the State of Nebraska, which is approved by the
27 trial court in which the judgment was rendered and filed in the
28 court, the general lien of the judgment shall be dissolved;

1 (2) When the judgment, decree, or final order directs the
2 execution of a conveyance or other instrument, the bond, deposit of
3 United States Government bonds, or cash deposit shall be in such
4 sum as shall be prescribed by the ~~district~~ trial court, or judge
5 thereof in vacation, conditioned that the appellant or appellants
6 will prosecute such appeal without delay and will abide and perform
7 the judgment or decree rendered or final order which shall be made
8 by the Court of Appeals or Supreme Court in the cause;

9 (3) When the judgment, decree, or order directs the sale
10 or delivery of possession of real estate, the bond, deposit of
11 United States Government bonds, or cash deposit shall be in such
12 sum as the court, or judge thereof in vacation, shall prescribe,
13 conditioned that the appellant or appellants will prosecute such
14 appeal without delay, will not during the pendency of such appeal
15 commit or suffer to be committed any waste upon such real estate,
16 and will pay all costs and all rents or damages to such real estate
17 which may accrue during the pendency of such appeal and until the
18 appellee is legally restored thereto; and

19 (4) When the judgment, decree, or final order dissolves
20 or modifies any order of injunction which has been or hereafter may
21 be granted, the supersedeas bond, deposit of United States
22 Government bonds, or cash deposit shall be in such reasonable sum
23 as the court or judge thereof in vacation shall prescribe,
24 conditioned that the appellant or appellants will prosecute such
25 appeal without delay and will pay all costs which may be found
26 against him, her, or them on the final determination of the cause
27 in the Court of Appeals or Supreme Court, and such supersedeas
28 bond, deposit of United States Government bonds, or cash deposit

1 shall stay the doing of the act or acts sought to be restrained by
2 the suit and continue such injunction in force until the case is
3 heard and finally determined in the Court of Appeals or Supreme
4 Court. The undertaking given upon the allowance of the injunction
5 shall be and remain in effect until it is finally decided whether
6 or not the injunction ought to have been granted.

7 Sec. 16. Section 25-1920, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 25-1920. In all actions in which a temporary injunction
10 has been granted and entered in the ~~district~~ trial court, which
11 order allowing the temporary injunction is or has been superseded
12 for by law, and in which action the trial court, on the merits,
13 determined that the temporary injunction ought not to have been
14 granted and a permanent injunction was refused in such action, such
15 cause shall be advanced by the Court of Appeals or Supreme Court
16 for hearing. In all such actions, if the relief demanded involves
17 the delivery of irrigation water and the Director of Water
18 Resources, as defined in section 25-1062.01, is a party, any appeal
19 from the judgment or decree of the ~~district~~ trial court shall be
20 perfected within thirty days after the rendition of such judgment
21 or decree or the making of a final order by the district court, and
22 the cause shall be advanced for hearing before the Court of Appeals
23 or Supreme Court.

24 Sec. 17. Section 25-1923, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 25-1923. When any case or proceeding in which the record
27 or transcript has been so made up has been finally determined in
28 the Court of Appeals or Supreme Court, the original bill or bills

1 of exceptions shall be by the Clerk of the Supreme Court
2 transmitted to the clerk of the ~~district~~ court from which such case
3 or proceeding was removed. It shall be the duty of the clerk of
4 the ~~district~~ court to preserve such bill or bills of exceptions in
5 the files of the office for a period of ten years from the time of
6 receipt from the Clerk of the Supreme Court. After the lapse of
7 such time, if the record in the ~~district~~ trial court does not show
8 any unfinished matter pending in the case and upon such notice as
9 the ~~district~~ court may direct, such bill or bills of exceptions may
10 be removed from the files and disposed of in any way that the judge
11 of the ~~district~~ trial court directs when approval is given by the
12 State Records Administrator pursuant to the Records Management Act.

13 Sec. 18. Section 25-1925, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 25-1925. In all appeals from the ~~district~~ trial court in
16 suits in equity in which review of some or all of the findings of
17 fact of the ~~district~~ trial court is asked by the appellant, it
18 shall be the duty of the Court of Appeals or the Supreme Court to
19 retry the issue or issues of fact involved in the finding or
20 findings of fact complained of upon the evidence preserved in the
21 bill of exceptions and, upon trial de novo of such question or
22 questions of fact, reach an independent conclusion as to what
23 finding or findings are required under the pleadings and all the
24 evidence without reference to the conclusion reached in the
25 ~~district~~ trial court or the fact that there may be some evidence in
26 support thereof.

27 Sec. 19. Section 25-1935, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 25-1935. It shall be the duty of the Clerk of the
2 Supreme Court immediately upon the entering of a judgment by the
3 Court of Appeals or Supreme Court to certify without cost a copy of
4 the opinion of the court to the clerk of the ~~district~~ trial court
5 from which the appeal was prosecuted.

6 Sec. 20. Section 25-1936, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 25-1936. Whenever in any action at law in the ~~district~~
9 trial court a verdict of the jury has been returned for the
10 recovery of money and the court orders a remittitur by the
11 prevailing party of a part of the amount of such verdict, either as
12 a condition to allowing the verdict so reduced to stand or
13 otherwise, such order of remittitur shall be deemed a final order
14 from which such party may prosecute an appeal to the Court of
15 Appeals. The provisions of this section shall not in any manner
16 affect the rights of parties on appeal as provided for in section
17 25-1929.

18 Sec. 21. Section 25-1937, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 25-1937. When the Legislature enacts a law providing for
21 an appeal without providing the appeal procedure therefor for any
22 tribunal, board, or officer exercising judicial functions which is
23 inferior in jurisdiction to the district court, the procedure for
24 appeal to the district court shall be the same as for appeals from
25 the Small Claims Court ~~county court~~ to the district court pursuant
26 to section 25-2807 and sections 27 to 36 of this act. ~~in civil~~
27 ~~actions.~~ Trial in the district court shall be de novo upon the
28 issues made up by the pleadings in the district court. Appeals

1 from the district court to the Court of Appeals shall be taken in
2 the same manner provided by law for appeals from the district court
3 in civil cases. This section shall not apply if the Administrative
4 Procedure Act otherwise provides.

5 Sec. 22. Section 25-21,233, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 25-21,233. Any party against whom judgment has been
8 entered in an action of forcible entry and detention, or forcible
9 detention only, of real property, may appeal as provided in
10 sections ~~25-2728 to 25-2738~~ 27 to 36 of this act.

11 Sec. 23. Section 25-2728, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 25-2728. (1) Except as provided in subsection (2) of
14 this section, any Any party in a civil case and any defendant in a
15 criminal case may appeal from the final judgment or final order of
16 the county court to the ~~district court of the county where the~~
17 ~~county court is located.~~ Court of Appeals pursuant to sections
18 25-1901 to 25-1937. Any defendant in a criminal case may appeal
19 from the final judgment or final order of the county court to the
20 Court of Appeals pursuant to sections 29-2301 to 29-2308. In a
21 criminal case, a prosecuting attorney may obtain review by
22 exception proceedings pursuant to sections 29-2317 to 29-2319.

23 (2) ~~Sections 25-2728 to 25-2738 shall not apply to:~~

24 (a) ~~Appeals in eminent domain proceedings as provided in~~
25 ~~sections 76-715 to 76-723,~~

26 (b) ~~Appeals in proceedings in the county court sitting as~~
27 ~~a juvenile court as provided in sections 43-287.01 to 43-287.06,~~
28 ~~43-2,106, and 43-2,106.01,~~

1 ~~(c) Appeals in matters arising under the Nebraska Probate~~
2 ~~Code as provided in section 30-1601,~~

3 ~~(d) Appeals in adoption proceedings as provided in~~
4 ~~section 43-112, and~~

5 ~~(e) Appeals in inheritance tax proceedings as provided in~~
6 ~~section 77-2023~~ Any party may appeal from the final judgment or
7 final order of the Small Claims Court as provided in section
8 25-2807 and sections 27 to 36 of this act.

9 Sec. 24. Section 25-2739, Revised Statutes Supplement,
10 1998, is amended to read:

11 25-2739. A judgment rendered or final order made by a
12 ~~county~~ trial court in a domestic relations matter as defined in
13 section 25-2740 may be reversed, vacated, or modified by the Court
14 of Appeals in the same manner as judgments and final orders of the
15 ~~district~~ trial court under sections ~~25-1911 to 25-1929~~ 25-1901 to
16 25-1937.

17 Sec. 25. Section 25-2740, Revised Statutes Supplement,
18 1998, is amended to read:

19 25-2740. (1) For purposes of this section:

20 (a) Domestic relations matters means proceedings under
21 sections 28-311.09 and 28-311.10 (including harassment protection
22 orders and valid foreign harassment protection orders), the
23 Conciliation Court Law and sections 42-347 to 42-381 (including
24 dissolution, separation, annulment, custody, and support), section
25 43-512.04 (including child support or medical support), section
26 42-924 (including domestic protection orders), sections 43-1401 to
27 43-1418 (including paternity determinations and parental support),
28 and sections 43-1801 to 43-1803 (including grandparent visitation);

1 and

2 (b) Paternity determinations means proceedings to
3 establish the paternity of a child under sections 43-1411 to
4 43-1418.

5 (2) Except as provided in subsection (4) of this section,
6 in domestic relations matters, a party shall file his or her
7 petition and all other court filings with the clerk of the district
8 court. The party shall state in the petition whether such party
9 requests that the proceeding be heard by a county court judge or by
10 a district court judge. If the party requests the case be heard by
11 a county court judge, the county court judge assigned to hear cases
12 in the county in which the matter is filed at the time of the
13 hearing is deemed appointed by the district court and the consent
14 of the county court judge is not required. Such proceeding is
15 considered a district court proceeding, even if heard by a county
16 court judge, and an order or judgment of the county court in a
17 domestic relations matter has the force and effect of a district
18 court judgment. The testimony in a domestic relations matter heard
19 before a county court judge shall be preserved as provided in
20 section ~~25-2732~~ 30 of this act.

21 (3) Until January 1, 2000, upon motion of a party in a
22 contested action brought under subsection (2) of this section, the
23 proceeding shall be transferred from a county court judge to a
24 district court judge.

25 (4) In addition to the jurisdiction provided for
26 paternity determinations under subsection (2) of this section, a
27 county court or separate juvenile court which already has
28 jurisdiction over the child whose paternity is to be determined has

1 jurisdiction over such paternity determination.

2 Sec. 26. Section 25-2807, Revised Statutes Supplement,
3 1998, is amended to read:

4 25-2807. Unless the controversy is subject to the
5 Uniform Arbitration Act, any party may appeal from the final
6 judgment or final order of the Small Claims Court to the district
7 court of the county where the Small Claims Court is located as
8 provided in sections ~~25-2728 to 25-2738~~ 27 to 36 of this act.
9 Parties may be represented by attorneys on appeal.

10 Sec. 27. (1) In order to perfect an appeal from the
11 Small Claims Court, the appealing party shall within thirty days
12 after the rendition of the final judgment or making of the final
13 order complained of:

14 (a) File with the clerk of the county court a notice of
15 appeal; and

16 (b) Deposit with the clerk of the county court a docket
17 fee in the amount of the filing fee in district court.

18 (2) Satisfaction of the requirements of subsection (1) of
19 this section shall perfect the appeal and give the district court
20 jurisdiction of the matter appealed.

21 (3) The time of rendition of a judgment or making of a
22 final order is the time at which the action of the judge in
23 announcing the judgment or final order is noted on the trial docket
24 or, if the action is not noted on the trial docket, the time at
25 which the journal entry of the action is filed.

26 (4) The appealing party shall also, within the time fixed
27 by subsection (1) of this section, deposit with the clerk of the
28 county court a cash bond or undertaking, with at least one good and

1 sufficient surety approved by the court, in the amount of fifty
2 dollars, conditioned that the appellant will satisfy any judgment
3 and costs that may be adjudged against him or her.

4 (5) A notice of appeal or docket fee filed or deposited
5 after the announcement of a decision or final order but before the
6 rendition of the judgment or making of the final order shall be
7 treated as filed or deposited after the rendition of the judgment
8 or making of the final order and on the day thereof.

9 (6) The party appealing shall serve a copy of the notice
10 of appeal upon all parties who have appeared in the action or upon
11 their attorneys of record. Proof of service shall be filed with
12 the notice of appeal.

13 (7) If an appellant fails to comply with any provision of
14 subsection (4) or (6) of this section, the district court on motion
15 and notice may take such action, including dismissal of the appeal,
16 as is just.

17 Sec. 28. (1) In cases involving a money judgment or a
18 judgment for the possession of specified personal property, no
19 appeal shall operate as a supersedeas unless the appellant within
20 thirty days after the rendition of the judgment deposits with the
21 clerk of the county court a cash bond or an undertaking with at
22 least one good and sufficient surety approved by the court. In
23 cases involving a money judgment, the bond or undertaking shall be
24 in the amount of the judgment, costs, and estimated interest
25 pending appeal and conditioned that the appellant shall pay the
26 judgment, interest, and costs adjudged against him or her on
27 appeal. In cases involving a judgment for the possession of
28 specified personal property, the bond or undertaking shall be in an

1 amount at least double the value of the property and conditioned
2 that the appellant shall pay all costs and damages adjudged against
3 him or her on appeal and deliver the property in accordance with
4 the judgment on appeal.

5 (2) In all other cases, perfection of an appeal shall not
6 stay the proceedings.

7 (3) In any case, the district court, on motion after
8 notice and hearing and upon such terms as justice shall require,
9 may stay any order or judgment appealed from, order a renewal or
10 additional surety of an undertaking, or order the amount of the
11 undertaking or recognizance increased or decreased. The action of
12 the district court shall be certified by the clerk to the clerk of
13 the county court.

14 Sec. 29. Section 25-2731, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 ~~25-2731.~~ (1) Upon perfection of the appeal, the clerk of
17 the county court shall transmit within ten days to the clerk of the
18 district court a certified copy of the transcript and the docket
19 fee, whereupon the clerk of the district court shall docket the
20 appeal. A copy of any bond or undertaking shall be transmitted to
21 the clerk of the district court within ten days of filing.

22 (2) The Supreme Court shall, by rule and regulation,
23 specify the method of ordering the transcript and the form and
24 content of the transcript.

25 Sec. 30. Section 25-2732, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 ~~25-2732.~~ (1) Testimony in all cases in Small Claims
28 Court civil and criminal cases in county court shall be preserved

1 by tape recording, but the court may order the use of a court
2 reporter in any case.

3 (2) Standards for equipment for tape recording testimony
4 and rules for using such equipment shall be prescribed by the
5 Supreme Court. Such standards shall require that the equipment be
6 capable of multiple-track recording and of instantaneous monitoring
7 by the clerk or other court employee operating the equipment.

8 (3) The transcription of such testimony, when certified
9 to by the stenographer or court reporter who made it and settled by
10 the court as such, shall constitute the bill of exceptions in the
11 case. The cost of preparing the bill of exceptions shall be paid
12 initially by the party for whom it is prepared.

13 (4) The procedure for preparation, settlement, signature,
14 allowance, certification, filing, and amendment of a bill of
15 exceptions shall be governed by rules of practice prescribed by the
16 Supreme Court.

17 Sec. 31. Section 25-2734, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 ~~25-2734.~~ In all cases of appeals from the Small Claims
20 Court the district court shall try the case de novo without a jury.
21 The judgment of the district court shall vacate the judgment in the
22 ~~county court or the judgment, if entered prior to July 1, 1985, in~~
23 ~~the municipal court~~ Small Claims Court. The taxation of costs in
24 the district court shall include the costs in the ~~county court~~
25 Small Claims Court.

26 Sec. 32. Section 25-2733, Reissue Revised Statutes of
27 Nebraska, is amended to read:

28 ~~25-2733.~~ (1) In all cases other than appeals from the

1 ~~Small Claims Court,~~ the district court shall review the case for
2 ~~error appearing on the record made in the county court.~~ The
3 district court shall render a judgment which may affirm, affirm but
4 modify, or reverse the judgment or final order of the ~~county court~~
5 Small Claims Court. If the district court reverses, it may enter
6 judgment in accordance with its findings or remand the case to the
7 ~~county court~~ Small Claims Court for further proceedings consistent
8 with the judgment of the district court. Within two judicial days
9 after the decision of the district court becomes final, the clerk
10 of the district court shall issue a mandate in appeals from the
11 ~~county court~~ Small Claims Court and transmit the mandate in appeals
12 to the clerk of the county court on the form prescribed by the
13 Supreme Court together with a copy of such decision.

14 (2) The bill of exceptions, if filed with the clerk at or
15 before the hearing, shall be considered admitted in evidence on the
16 hearing of the appeal unless the court on objection by a party
17 excludes all or part of it.

18 (3) ~~The judgment of the district court shall vacate the~~
19 ~~judgment in the county court.~~ The taxation of costs in the
20 ~~district court shall include the costs in the county court.~~ If a
21 judgment of the ~~county court~~ Small Claims Court is affirmed or
22 affirmed but modified, interest on the amount of the judgment in
23 the district court that does not exceed the amount of the judgment
24 in the ~~county court~~ Small Claims Court shall run from the date of
25 the judgment appealed from the ~~county court~~ Small Claims Court.

26 Sec. 33. When an appeal is dismissed or when judgment is
27 entered in the district court against the appellant, the sureties
28 in the undertaking shall be liable to the appellee for the amount

1 of the judgment, interest, and costs recovered against the
2 appellant but not to exceed the amount of the undertaking.

3 Sec. 34. If an appeal is dismissed for procedural
4 reasons, the clerk of the district court shall certify the order
5 without cost to the Small Claims Court. Thereafter the proceedings
6 in the Small Claims Court shall continue as if no appeal had been
7 taken.

8 Sec. 35. In all cases involving a money judgment, if any
9 person appealing from a judgment rendered in his or her favor does
10 not recover a greater sum than the amount for which judgment was
11 rendered, besides costs and the interest accruing thereon, such
12 appellant shall pay the costs of such appeal.

13 Sec. 36. No appeal shall be allowed from judgments
14 rendered on confession.

15 Sec. 37. Section 29-611, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 29-611. The defendant shall have the right of appeal
18 from any judgment of a county court pursuant to sections ~~25-2728 to~~
19 ~~25-2737~~ 29-2301 to 29-2308.

20 Sec. 38. Section 29-2302, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 29-2302. The execution of sentence and judgment against
23 any person or persons convicted and sentenced in the ~~district~~ trial
24 court for a misdemeanor shall be suspended during an appeal to the
25 Court of Appeals or Supreme Court. The ~~district~~ trial court shall
26 fix the amount of a recognizance, which in all cases shall be
27 reasonable, conditioned that the appeal shall be prosecuted without
28 delay and that in case the judgment is affirmed he, she, or they

1 will abide, do, and perform the judgment and sentence of the
2 ~~district~~ trial court.

3 Sec. 39. Section 29-2306, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 29-2306. If a defendant in a criminal case files, within
6 thirty days after the rendition of the judgment, order, or
7 sentence, an affidavit with the clerk of the ~~district~~ trial court
8 that he or she is unable by reason of poverty to pay the costs,
9 then no payment of the docket fee shall be required of him or her.
10 The clerk of the ~~district~~ trial court shall forward a certified
11 copy of such affidavit to the Clerk of the Supreme Court. If such
12 affidavit is filed, the Court of Appeals or Supreme Court shall
13 acquire jurisdiction of the case when the notice of appeal is filed
14 with the clerk of the ~~district~~ trial court. In cases in which such
15 affidavits of poverty have been filed, the amount of the costs
16 shall be endorsed on the mandate and the same shall be paid by the
17 county in which the indictment was found.

18 Sec. 40. Section 29-2308, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 29-2308. In all criminal cases that now are or may
21 hereafter be pending in the Court of Appeals or Supreme Court, the
22 appellate court may reduce the sentence rendered by the ~~district~~
23 trial court against the accused when in its opinion the sentence is
24 excessive, and it shall be the duty of the appellate court to
25 render such sentence against the accused as in its opinion may be
26 warranted by the evidence. No judgment shall be set aside, new
27 trial granted, or judgment rendered in any criminal case on the
28 grounds of misdirection of the jury or the improper admission or

1 rejection of evidence or for error as to any matter of pleading or
2 procedure if the appellate court, after an examination of the
3 entire cause, considers that no substantial miscarriage of justice
4 has actually occurred.

5 Sec. 41. Section 29-2317, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 29-2317. (1) A prosecuting attorney, including any
8 county attorney, city attorney, or designated assistant, may take
9 exception to any ruling or decision of the county court made during
10 the prosecution of a cause by presenting to the county court a
11 notice of intent to take an appeal to the ~~district court~~ Court of
12 Appeals with reference to the rulings or decisions of which
13 complaint is made.

14 (2) The notice shall contain a copy of the rulings or
15 decisions complained of, the basis and reasons for objection
16 thereto, and a statement by the prosecuting attorney as to the part
17 of the record he or she proposes to present to the ~~district court~~
18 Court of Appeals. The notice shall be presented to the county
19 court within twenty days after the final order is entered in the
20 cause. If the county court finds it is in conformity with the
21 truth, the judge shall sign it and shall indicate thereon whether,
22 in his or her opinion, the part of the record which the prosecuting
23 attorney proposes to present to the ~~district court~~ Court of Appeals
24 is adequate for a proper consideration of the matter.

25 (3) The prosecuting attorney shall then file the notice
26 in the ~~district court~~ Court of Appeals within thirty days from the
27 date of final order and within thirty days from the date of filing
28 the notice shall file a bill of exceptions covering the part of the

1 record referred to in the notice. Such appeal shall be on the
2 record.

3 Sec. 42. Section 29-2319, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 29-2319. (1) The judgment of the trial court in any
6 action taken under the provisions of sections 29-2317 and 29-2318
7 shall not be reversed nor in any manner affected when the defendant
8 in the trial court has been placed legally in jeopardy, but in such
9 cases the decision of the ~~district~~ appellate court shall determine
10 the law to govern in any similar case which may be pending at the
11 time the decision is rendered, or which may thereafter arise in the
12 ~~district~~ state.

13 (2) When the decision of the ~~district~~ appellate court
14 establishes that the final order of the trial court was erroneous
15 and that the defendant had not been placed legally in jeopardy
16 prior to the entry of such erroneous order, the trial court may
17 upon application of the prosecuting attorney issue its warrant for
18 the rearrest of the defendant and the cause against ~~him~~ the
19 defendant shall thereupon proceed in accordance with the law as
20 determined by the decision of the ~~district~~ appellate court.

21 (3) When the ~~district~~ appellate court affirms the final
22 order of the trial court, the prosecuting attorney may take
23 exception to the decision of the ~~district~~ appellate court in the
24 manner provided by sections 29-2315.01 to 29-2316.

25 Sec. 43. Section 29-2525, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 29-2525. In cases when the punishment is capital, no
28 notice of appeal shall be required and within the time prescribed

1 by section 25-1931 for the commencement of proceedings for the
2 reversing, vacating, or modifying of judgments, the clerk of the
3 ~~district~~ court in which the conviction was had shall notify the
4 court reporter who shall prepare a bill of exceptions as in other
5 cases and the clerk shall prepare and file with the Clerk of the
6 Supreme Court a transcript of the record of the proceedings, for
7 which no charge shall be made. The Clerk of the Supreme Court
8 shall, upon receipt of the transcript, docket the appeal. No
9 payment of a docket fee shall be required.

10 The Supreme Court shall expedite the rendering of its
11 opinion on the appeal, giving the matter priority over civil and
12 noncapital criminal matters.

13 Sec. 44. Section 30-1601, Revised Statutes Supplement,
14 1998, is amended to read:

15 30-1601. (1) In all matters arising under the Nebraska
16 Probate Code, appeals may be taken to the Court of Appeals ~~in the~~
17 ~~same manner as an appeal from district court to the Court of~~
18 Appeals as provided in sections 25-1901 to 25-1937.

19 (2) An appeal may be taken by any party and may also be
20 taken by any person against whom the final judgment or final order
21 may be made or who may be affected thereby.

22 (3) When the appeal is by someone other than a personal
23 representative, conservator, trustee, guardian, or guardian ad
24 litem, the appealing party shall, within thirty days after the
25 rendition of the judgment or making of the final order complained
26 of, deposit with the clerk of the county court a supersedeas bond
27 or undertaking in such sum as the court shall direct, with at least
28 one good and sufficient surety approved by the court, conditioned

1 that the appellant will satisfy any judgment and costs that may be
2 adjudged against him or her, including costs under subsection (6)
3 of this section, unless the court directs that no bond or
4 undertaking need be deposited. If an appellant fails to comply
5 with this subsection, the Court of Appeals on motion and notice may
6 take such action, including dismissal of the appeal, as is just.

7 (4) The appeal shall be a supersedeas for the matter from
8 which the appeal is specifically taken, but not for any other
9 matter. In appeals pursuant to sections 30-2601 to 30-2661, upon
10 motion of any party to the action, the county court may remove the
11 supersedeas or require the appealing party to deposit with the
12 clerk of the county court a bond or other security approved by the
13 court in an amount and conditioned in accordance with sections
14 30-2640 and 30-2641. Once the appeal is perfected, the court
15 having jurisdiction over the appeal may, upon motion of any party
16 to the action, reimpose or remove the supersedeas or require the
17 appealing party to deposit with the clerk of the court a bond or
18 other security approved by the court in an amount and conditioned
19 in accordance with sections 30-2640 and 30-2641. Upon motion of
20 any interested party or upon the court's own motion, the county
21 court may appoint a special guardian or conservator pending appeal
22 despite any supersedeas order.

23 (5) The judgment of the Court of Appeals shall not vacate
24 the judgment in the county court. The judgment of the Court of
25 Appeals shall be certified without cost to the county court for
26 further proceedings consistent with the determination of the Court
27 of Appeals.

28 (6) If it appears to the Court of Appeals that an appeal

1 was taken vexatiously or for delay, the court shall adjudge that
2 the appellant shall pay the cost thereof, including an attorney's
3 fee, to the adverse party in an amount fixed by the Court of
4 Appeals, and any bond required under subsection (3) of this section
5 shall be liable for the costs.

6 Sec. 45. Section 31-329, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 31-329. Any person or corporation who has filed
9 objections and had a hearing as herein provided for, feeling
10 aggrieved by the decision and judgment of the board of supervisors,
11 may appeal to the district court within and for the county in which
12 the drainage district was originally established, upon giving a
13 bond conditioned the same as in appeals to the district court
14 pursuant to section 25-2807 and sections 27 to 36 of this act. The
15 bond shall be as from civil actions in county court in this state
16 and payable to the drainage district, and in addition thereto
17 conditioned that he will pay upon payment of all damages which may
18 accrue to the drainage district by reason of such appeal. The bond
19 shall be approved by the secretary of the board of supervisors, and
20 filed with the secretary within ten days after the rendition of the
21 decision appealed from. Within ten days after the filing of the
22 bond, the secretary shall make and file a transcript of the
23 proceedings appealed from, together with all the papers relating
24 thereto, with the clerk of the district court in which said the
25 matter has been appealed. Upon the filing of the transcript and
26 bond, the district court shall have jurisdiction of the cause, and
27 the same shall be docketed and filed as in appeals pursuant to
28 section 25-2807 and sections 27 to 36 of this act. in other civil

1 ~~actions to such court.~~ The district court shall hear and determine
2 all such objections in a summary manner as in a case in equity, and
3 shall increase or reduce the amount of benefit on any tract where
4 the same may be required in order to make the apportionment
5 equitable. All objections that may be filed shall be heard and
6 determined by the district court as one proceeding, and only one
7 transcript of the final order of the board of supervisors, fixing
8 the apportionments or benefits, shall be required. The clerk of
9 the district court shall forthwith certify the decision of the
10 court to the board of supervisors, which shall take such action as
11 may be rendered necessary by such decisions.

12 Sec. 46. Section 33-106, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 33-106. In addition to the judges retirement fund fee
15 and the fee provided in section 33-106.03 and except as otherwise
16 provided by law, the fees of the clerk of the district court shall
17 be as ~~follows:~~ provided in this section.

18 There shall be a docket fee of forty dollars for each
19 civil and criminal case except (1) ~~a case commenced by filing a~~
20 ~~transcript of judgment as hereinafter provided,~~ (2) proceedings
21 under the Nebraska Workers' Compensation Act and the Employment
22 Security Law, when provision is made for the fees that may be
23 charged, and (2) (3) a criminal case appealed to the district court
24 ~~from any court inferior thereto as hereinafter provided.~~ There
25 ~~shall be a docket fee of twenty-five dollars for each case~~
26 ~~commenced by filing a transcript of judgment from another court in~~
27 ~~this state for the purpose of obtaining a lien, there shall be a~~
28 docket fee of twenty-five dollars. ~~There shall be a docket fee of~~

1 ~~twenty-five dollars for each criminal case appealed to the district~~
2 ~~court from any court inferior thereto.~~

3 In all cases, other than those appealed from an inferior
4 court or tribunal ~~or~~ original filings which are within
5 jurisdictional limits of an inferior court and when a jury is
6 demanded in district court, the docket fee shall cover all fees of
7 the clerk, except that the clerk shall be paid for each copy or
8 transcript ordered of any pleading, record, or other paper and that
9 the clerk shall be entitled to a fee of fifteen dollars for making
10 a complete record of a case. The fee shall be taxed as a part of
11 the costs of the case, except when expressly waived by the parties
12 to the action. In all civil cases, except habeas corpus cases in
13 which a poverty affidavit is filed and approved by the court, and
14 for all other services, the docket fee or other fee shall be paid
15 by the party filing the case or requesting the service at the time
16 the case is filed or the service requested.

17 For any other service which may be rendered or performed
18 by the clerk but which is not required in the discharge of his or
19 her official duties, the fee shall be the same as that of a notary
20 public but in no case less than one dollar.

21 Sec. 47. Section 43-112, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 43-112. An appeal shall be allowed from any final order,
24 judgment, or decree, rendered under the authority of sections
25 43-101 to 43-115, from the county court to the Court of Appeals ~~in~~
26 ~~the same manner as an appeal from district court to the Court of~~
27 Appeals as provided in sections 25-1901 to 25-1937.

28 An appeal may be taken by any party and may also be taken

1 by any person against whom the final judgment or final order may be
2 made or who may be affected thereby. The judgment of the Court of
3 Appeals shall not vacate the judgment of the county court. The
4 judgment of the Court of Appeals shall be certified without cost to
5 the county court for further proceedings consistent with the
6 determination of the Court of Appeals.

7 Sec. 48. Section 43-287.05, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 43-287.05. A juvenile review panel shall review the
10 disposition of a court de novo on the record. The record shall
11 consist of a transcript and bill of exceptions which shall be
12 requested and prepared as in appeals ~~from the county court~~ to the
13 ~~district court~~ Court of Appeals as provided in sections 25-1901 to
14 25-1937. A juvenile review panel shall affirm the disposition
15 unless it is shown by a preponderance of the evidence that the
16 disposition was not in the best interests of the juvenile, in which
17 case the panel may modify the court-ordered plan or the plan of the
18 Department of Health and Human Services or may substitute the
19 department's plan for the court-ordered plan and remand the case
20 back to the court with directions to implement such plan. Such
21 review shall stay the enforcement of any order entered by the
22 court.

23 The review by the juvenile review panel shall be as
24 expeditious as possible, and a decision shall be made within thirty
25 days after receiving the bill of exceptions from the court
26 stenographer. The panel's decision shall be final and binding on
27 the parties, except that the decision may be appealed as provided
28 in section 43-287.06.

1 Sec. 49. Section 43-2,106.01, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 43-2,106.01. (1) Any final order or judgment entered by
4 a juvenile court may be appealed to the Court of Appeals in the
5 same manner as an appeal from district court to the Court of
6 Appeals as provided in sections 25-1901 to 25-1937. The appellate
7 court shall conduct its review within the same time and in the same
8 manner prescribed by law for review of an order or judgment of the
9 district court, except as provided in sections 43-287.01 to
10 43-287.06 and except that when appeal is taken from a finding by
11 the juvenile court terminating parental rights, the cause shall be
12 advanced for argument before the appellate court and the appellate
13 court shall, in order to expedite the preferred disposition of the
14 case and the juvenile, render the judgment and write its opinion,
15 if any, as speedily as possible.

16 (2) An appeal may be taken by:

17 (a) The juvenile;

18 (b) The guardian ad litem;

19 (c) The juvenile's parent, custodian, or guardian. For
20 purposes of this subdivision, custodian or guardian shall include,
21 but not be limited to, the Department of Health and Human Services,
22 an association, or an individual to whose care the juvenile has
23 been awarded pursuant to the Nebraska Juvenile Code; or

24 (d) The county attorney or petitioner, except that in any
25 case determining delinquency issues in which the juvenile has been
26 placed legally in jeopardy, an appeal of such issues may only be
27 taken by exception proceedings pursuant to sections 29-2317 to
28 29-2319.

1 (3) In all appeals from the county court sitting as a
2 juvenile court, the judgment of the appellate court shall be
3 certified without cost to the juvenile court for further
4 proceedings consistent with the determination of the appellate
5 court.

6 Sec. 50. Section 71-3605, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-3605. Any person aggrieved by a final decision in a
9 contested case, whether such decision is affirmative or negative in
10 form, is entitled to judicial review under the provisions of
11 sections ~~25-2728 to 25-2738~~ 27 to 36 of this act.

12 Sec. 51. Section 76-715, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 76-715. Either condemner or condemnee may appeal from
15 the assessment of damages by the appraisers to the ~~district court~~
16 ~~of the county where the petition to initiate proceedings was filed~~
17 Court of Appeals. Such appeal shall be taken by filing a notice of
18 appeal with the county judge within thirty days from the date of
19 filing of the report of appraisers as provided in section 76-710.

20 Sec. 52. Section 76-717, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 76-717. Within thirty days after the filing of such
23 notice of appeal, the county judge shall prepare and transmit to
24 the ~~clerk of the district court~~ Clerk of the Supreme Court a duly
25 certified transcript of all proceedings had concerning the parcel
26 or parcels of land as to which the particular condemnee takes the
27 appeal upon payment of the fees provided by law for preparation
28 thereof. When notice of appeal is filed by both the condemner and

1 the condemnee, such transcript shall be prepared only in response
2 to the first notice of appeal. The transcript prepared in response
3 to the second notice of appeal shall contain only a copy of such
4 notice, and the proceedings shall be docketed in the ~~district court~~
5 Court of Appeals as a single cause of action.

6 The filing of the notice of appeal shall confer
7 jurisdiction on the ~~district court~~ Court of Appeals. The first
8 party to perfect an appeal shall file a petition on appeal in the
9 ~~district court~~ Court of Appeals within fifty days after the filing
10 of the notice of appeal. If no petition is filed, the court shall
11 direct the first party to perfect an appeal to file a petition and
12 impose such sanctions as are reasonable. The appeal shall be tried
13 de novo in the ~~district court~~ Court of Appeals. Such appeal shall
14 not delay the acquisition of the property and placing of same to a
15 public use if the condemner ~~shall first deposit~~ first deposits with
16 the county judge the amount assessed by the appraisers.

17 Sec. 53. Section 76-718, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 76-718. After rendition of final judgment in the
20 ~~district appellate~~ court on the appeal, a certified copy thereof
21 shall be prepared and transmitted by the ~~clerk of the district~~
22 ~~court~~ Clerk of the Supreme Court to the county judge.

23 Sec. 54. Section 76-720, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 76-720. If an appeal is taken from the award of the
26 appraisers by the condemnee and the amount of the final judgment is
27 greater by fifteen percent than the amount of the award, or if
28 appeal is taken by the condemner and the amount of the final

1 judgment is not less than eighty-five percent of the award, or if
2 appeal is taken by both parties and the final judgment is greater
3 in any amount than the award, the court may in its discretion award
4 to the condemnee a reasonable sum for the fees of his or her
5 attorney and for fees necessarily incurred for not more than two
6 expert witnesses. On any appeal by the condemner, the condemner
7 shall pay all court costs on appeal. If appeal is taken by the
8 condemnee only and the final judgment is not equal to or greater
9 than the award of the appraisers, the court may in its discretion
10 award to the condemner the court costs incurred by the condemner,
11 but not attorney or expert witness fees.

12 If an appeal is taken ~~to the district court~~ and the
13 ~~district~~ appellate court finds that the condemner did not negotiate
14 in good faith with the property owner or there was no public
15 purpose for taking the property involved, the court shall award to
16 the condemnee a reasonable sum for the fees of his or her attorney
17 and the condemner shall pay all court costs on appeal.

18 The changes made to this section by Laws 1995, LB 222,
19 apply to any action pending on March 30, 1995, or filed on or after
20 such date.

21 Sec. 55. Section 76-723, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 76-723. The appraisers shall each receive a reasonable
24 fee for their services, to be fixed by the county judge or clerk
25 magistrate, and the same shall be taxed as costs. The fee shall
26 not exceed two hundred fifty dollars for each appraiser exclusive
27 of mileage for each day actually employed in attendance on the
28 board of appraisers. The condemner may appeal from the allowance

1 of any fee so fixed to the ~~district court~~ Court of Appeals. Such
2 an appeal shall be docketed apart from and shall be considered
3 separately and independently from the rights between the condemnee
4 and condemner. All costs of the first appraisal shall be paid
5 by the condemner. In addition, the appraiser shall receive mileage
6 at the rate provided in section 81-1176 for each mile necessarily
7 traveled.

8 Sec. 56. Section 76-1447, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 76-1447. If either party feels aggrieved by the
11 judgment, he or she may appeal as in other civil actions. An
12 appeal by the defendant shall stay the execution of any writ of
13 restitution, so long as the defendant deposits with the clerk of
14 the ~~district court~~ from which the appeal is taken the amount of
15 judgment and costs, or gives an appeal bond with surety therefor,
16 and thereafter pays into court, on a monthly basis, an amount equal
17 to the monthly rent called for by the rental agreement at the time
18 the complaint was filed.

19 Sec. 57. Section 77-2023, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 77-2023. An appeal may be taken from the determination
22 of the tax due made by the county court to the Court of Appeals ~~in~~
23 ~~the same manner as an appeal from district court to the Court of~~
24 ~~Appeals~~ as provided in sections 25-1901 to 25-1937.

25 An appeal may be taken by any party and may also be taken
26 by any person against whom the final judgment or final order may be
27 made or who may be affected thereby.

28 Sec. 58. Original sections 24-516, 25-1140, 25-1140.09,

LB 824

LB 824

1 25-1542, 25-1904, 25-1907, 25-1908, 25-1911, 25-1913 to 25-1916,
2 25-1920, 25-1923, 25-1925, 25-1935 to 25-1937, 25-21,233, 25-2728,
3 25-2731 to 25-2734, 29-611, 29-2302, 29-2306, 29-2308, 29-2317,
4 29-2319, 29-2525, 31-329, 33-106, 43-112, 43-287.05, 43-2,106.01,
5 71-3605, 76-715, 76-717, 76-718, 76-720, 76-723, 76-1447, and
6 77-2023, Reissue Revised Statutes of Nebraska, and sections 24-312,
7 25-1901, 25-1912, 25-2739, 25-2740, 25-2807, and 30-1601, Revised
8 Statutes Supplement, 1998, are repealed.

9 Sec. 59. The following sections are outright repealed:
10 Sections 25-2729, 25-2730, and 25-2735 to 25-2738, Reissue Revised
11 Statutes of Nebraska.